

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
World Media Broadcast Company)	File Number: EB-10-NF-0003
)	
Licensee of Station WCLM (AM))	NAL/Acct. No.: 201032640002
Highland Springs, Virginia)	
Facility ID # 73728)	FRN: 5016308

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 6, 2010

Released: May 10, 2010

By the Resident Agent, Norfolk Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that World Media Broadcast Company, (“World Media”), licensee of station WCLM(AM), in Highland Springs, Virginia, apparently willfully and repeatedly violated Sections 11.35(a), 73.1400(a)(1)(ii) and 73.3526 of the Commission’s Rules (“Rules”)¹ by failing to maintain functioning Emergency Alert System (“EAS”) equipment, failing to provide functioning transmission system remote control equipment, and failing to maintain and make available a public inspection file. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”),² that World Media is apparently liable for a forfeiture in the amount of twenty-one thousand dollars (\$21,000).

II. BACKGROUND

2. On January 26, 2010, in response to a complaint, an agent of the Commission’s Norfolk Office of the Enforcement Bureau (“Norfolk Office”) inspected the main studio for station WCLM in Richmond, Virginia. The agent observed that the station was without a functioning EAS system. WCLM’s station manager and the station’s “technical representative” stated that they believed the EAS encoder/decoder unit had been removed for repairs, but there were no logs to confirm the equipment removal. The agent observed, however, that the EAS unit was actually installed at the main studio but was not connected to the transmission system. Neither the station manager nor the “technical representative” was able to send an EAS test over the air, or knew when the EAS was last operational, or when the last EAS test was sent. There were no station logs at the main studio or records of any kind that showed that any required weekly or monthly EAS tests had ever been sent or received. Additionally, in response to the agent’s request for inspection during normal business hours, World Media was unable to produce its public inspection file or any of the required contents of the file. WCLM’s station manager stated that the public inspection file was kept at World Media’s headquarters in Washington, DC.

¹ 47 C.F.R. §§ 11.35(a), 73.1400(a)(1)(ii) and 73.3526.

² 47 U.S.C. § 503(b).

3. Also on January 26, 2010, during the inspection of the station's transmitter site, the agent observed that the transmitter's DC plate meter was apparently defective, as it read zero when the antenna base current meter indicated 3.8 amps at the base of the antenna. The agent also observed that World Media was unable to control the remote transmitter operation from the main studio because of an inoperative remote control system. World Media's "technical representative" stated that he was aware that the remote control unit was inoperative as a result of being struck by lightning sometime in November 2009. The "technical representative" stated that he was unable to repair the remote control equipment and planned to suggest that World Media purchase a new unit.

III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.³ The term "repeated" means the commission or omission of such act more than once or for more than one day.⁴

5. Every broadcast station is part of the nationwide EAS network and is categorized as a participating national EAS source unless the station affirmatively requests authority to refrain from participation, and that request is approved by the Commission.⁵ The EAS enables the President and state and local governments to provide immediate and emergency communications and information to the general public.⁶ State and local area plans identify local primary sources responsible for coordinating carriage of common emergency messages from sources such as the National Weather Service or local emergency management officials.⁷ Required monthly and weekly tests originate from EAS Local or State Primary sources and must be retransmitted by the participating station. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its licensees.

6. Section 11.35(a) of the Rules requires all broadcast stations to ensure that EAS encoders, EAS decoders, and attention signal generating and receiving equipment are installed and operational so that the monitoring and transmitting functions are available during the times the station is in operation.⁸ During the January 26, 2010 inspection, the agent observed that the WCLM(AM) EAS encoder/decoder unit was, in fact, installed at the main studio but was not operational. Both the station manager and the "technical

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁵ 47 C.F.R. §§ 11.11, 11.41.

⁶ 47 C.F.R. §§ 11.1, 11.21.

⁷ 47 C.F.R. § 11.18. State EAS plans contain guidelines that must be followed by broadcast and cable personnel, emergency officials and National Weather Service personnel to activate the EAS for state and local emergency alerts. The state plans include the EAS header codes and messages to be transmitted by the primary state, local and relay EAS sources.

⁸ 47 C.F.R. § 11.35(a).

representative” admitted that neither of them knew that an EAS Encoder/Decoder unit was installed at the main studio or when the last EAS test was sent. In addition, World Media was unable to produce any evidence that required EAS weekly or monthly tests had ever been sent or received. Therefore, we find that World Media apparently willfully and repeatedly violated Section 11.35(a) of the Rules by failing to ensure that EAS equipment was installed and operational when the station was in operation.

7. Section 73.1400(a)(1)(ii) of the Rules states that if a remote control system of the transmission system is used, the “remote control system must provide sufficient transmission system monitoring and control capability so as to ensure compliance with §73.1350.”⁹ On January 26, 2010, the installed transmitter dial-up remote control system at the WCLM transmitter site was inoperative. According to the station manager and “technical representative”, the transmitter remote control unit was “hit by lightning” sometime in November 2009 and had not subsequently been repaired or replaced. Therefore, we find that World Media apparently willfully and repeatedly violated Section 73.1400(a)(1)(ii) of the Rules by operating a remote transmitter from the main studio without functional remote control equipment.

8. Section 73.3526(a)(2) of the Rules states that “[e]very permittee or licensee of an AM, FM, TV or a Class A station in the commercial broadcast services shall maintain a public inspection file containing the material” set forth in this section.¹⁰ The public inspection file must be maintained at the main studio of the station,¹¹ and must be available for public inspection at any time during regular business hours.¹² An agent from the Norfolk Office requested to inspect station WCLM’s public inspection file during regular business hours on January 26, 2010. The station manager was unable to make its public inspection file or any of the required contents of the file available for inspection. He stated that WCLM’s public inspection file is maintained at World Media’s headquarters in Washington, DC. Based on the evidence before us, we find that World Media apparently willfully and repeatedly violated Section 73.3526 of the Rules by failing to maintain a public inspection file. We also find that World Media apparently willfully violated Section 73.3526 of the Rules by failing to make available a public inspection file.

9. Pursuant to *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, (“*Forfeiture Policy Statement*”), and Section 1.80 of the Rules, the base forfeiture amounts for not having operational EAS equipment installed, violation of transmitter control and metering requirements, and violation of public file rules are, respectively, \$8,000, \$3,000 and \$10,000.¹³ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.¹⁴ Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that World Media is apparently liable for \$21,000 forfeiture.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, 0.314 and 1.80 of the Commission’s Rules, World Media Broadcast Company is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A**

⁹ 47 C.F.R. § 73.1400(a)(1)(ii).

¹⁰ 47 C.F.R. § 73.3526(a)(2).

¹¹ 47 C.F.R. § 73.3526(b).

¹² 47 C.F.R. § 73.3526(c).

¹³ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

¹⁴ 47 U.S.C. § 503(b)(2)(E).

FORFEITURE in the amount of twenty-one thousand dollars (\$21,000) for violations of Sections 11.35(a), 73.1400(a)(1)(ii) and 73.3526 of the Rules.¹⁵

11. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, World Media Broadcast Company, **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁶ If you have questions, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. If payment is made, World Media Broadcast Company will send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

13. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Norfolk Office 1457 Mount Pleasant Rd, Suite 113, Chesapeake, Virginia 23322 and must include the NAL/Acct. No. referenced in the caption.

14. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

¹⁵ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80, 11.35(a), 73.1400(a)(1)(ii), 73.3526.

¹⁶ See 47 C.F.R. § 1.1914

15. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to World Media Broadcast Company, at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Luther Bolden
Resident Agent
Norfolk Office
South Central Region
Enforcement Bureau